REMARKS

Status of the Claims

The Office Action mailed June 22, 2009 noted that claims 1-5, 8-10 and 12-14 were pending and rejected all claims. Claims 1-4, 8-10, 13 and 14 are amended. No claims are cancelled. No new claims are added. No new matter is believed to be presented.

It is respectfully submitted that claims 1-5, 8-10 and 12-14 are pending and under consideration.

Ineffective Declaration

Applicant respectfully disagrees with the findings of the Examiner in regards to the Declaration. First, Applicant's mapping of its teaching does support all independent claims as required by 35 U.S.C. § 112. Preventing the filtering information from being encrypted is supported as noted in the Declaration and additionally in "Problem to be Solved by the Invention" in Exhibit I. Furthermore, "filtering information is used for identifying a specific value showing VoIP performing a VOIP communication" is supported by "Mode of Operation" as indicated in the Declaration. If any issues remain regarding support, the Examiner is respectfully requested to telephone the undersigned.

The critical period for diligence for a first conceiver but second reducer begins not at the time of conception of the first conceiver but **just prior to the entry in the field of the party who was first to reduce to practice and continues until the first conceiver reduces to practice**. *Hull v. Davenport*, 90 F.2d 103, 105, 33 USPQ 506, 508 (CCPA 1937). With respect to the "due diligence" between periods of 2-19-01 to 2-19-02 and 2-19-02 and 8-15-03, as acknowledged by the U.S. Patent and Trademark Office, the priority date of this Application is February 19, 2001, which is a date of foreign filing and constructive reduction to practice. Furthermore, the conceptual reduction to practice is indicated as being prior to December 29, 2000. In accordance with 2138.06 of the MPEP, due diligence need only be shown from just prior to December 29, 2000 to February 19, 2001 and this was provided in the Declaration. The Declaration showed correspondence and draft specifications being exchanged between the Applicant and A. Aoki from December 29, 2000 to February 19, 2001 as seen in Exhibit III. The Specification filed on February 19, 2001 was based on the one drafted prior to December 29, 2000. The periods referred to in the Office Action are inapplicable. Thus, the findings of the Examiner are respectfully traversed and Christensen is not a valid reference. Thus, the rejection

based on Christensen must be withdrawn.

Rejection under 35 U.S.C. § 103

The Office Action, on page 6, rejected claims 1-5, 8-10 and 12-14 under 35 U.S.C. § 103(a) as being unpatentable over Arrow and Christensen. This rejection is respectfully traversed below. As noted above, Christensen is not a valid reference and this rejection should be withdrawn. Furthermore, this rejection is respectfully traversed below.

The Office Action, on page 7, admitted that Arrow does not explicitly teach "said filtering information is used for identifying a specific value showing a VoIP performing a VoIP communication." Claim 1 is amended to clarify distinguishing features not discussed by Arrow and Christensen. Christensen discusses monitoring a Differential Services Code Point in an IP header or a priority level identifier in an RTP header and estimates whether a packet received is a VoIP packet in accordance with the H.323 Specification and SIP Specification. (See Christensen, column 8, lines 25-43, column 10, line 63-column 11, line 10).

In other words, Christensen discusses estimating reasonable likelihood of a VoIP packet using a "voice information identifier" by monitoring a Differential Services Code Point or a priority level indicator. However, Christensen does not say it is not entirely determinable whether a packet contains voice data or not simply from the packet per se, but merely a reasonable likelihood. In light of the above, nothing cited or found in Christensen discusses "said filtering information is used for identifying a specific value showing a VoIP performing a VoIP communication, and the specific value showing the VoIP provides a first function of the filtering and a second function of having a communication partner recognize the VoIP, simultaneously," recited for example, in claim 1.

Additionally, Christensen discusses monitoring a header, but does not contemplate a problem associated with having an encrypted header. Christensen does not discuss a way to filter an encrypted VoIP using non-encrypted filtering information as recited in claim 1. In other words, Arrow and Christensen do not discuss "said filtering information is used for identifying a specific value showing a VoIP performing a VoIP communication, and the specific value showing the VoIP provides a first function of the filtering and a second function of having the communication partner recognize the VoIP, simultaneously."

Independent claim 2 patentably distinguishes over Arrow and Christensen, taken alone and in combination for reasons similar to those discussed above, because nothing cited or found discusses "said filtering information is used for identifying a specific value showing a VoIP

performing a VoIP communication, and the specific value showing the VoIP provides a first function of the filtering and a second function of having a communication partner recognize the VoIP, simultaneously."

Independent claim 3 patentably distinguishes over Arrow and Christensen, taken alone and in combination for reasons similar to those discussed above, because nothing cited or found discusses "said filtering information is used for identifying a specific value showing a VoIP performing a VoIP communication, and the specific value showing the VoIP provides a first function of the filtering and a second function of having a communication partner recognize the VoIP, simultaneously."

Independent claim 4 patentably distinguishes over Arrow and Christensen, taken alone and in combination for reasons similar to those discussed above, because nothing cited or found discusses "said filtering key is used for identifying a specific value showing a VoIP performing a VoIP communication, and the specific value showing the VoIP provides a first function of the filtering and a second function of having a communication partner recognize the VoIP, simultaneously."

Independent claim 8 patentably distinguishes over Arrow and Christensen, taken alone and in combination for reasons similar to those discussed above, because nothing cited or found discusses "said filtering information is used for identifying a specific value showing a VoIP performing VoIP communication, and the specific value showing the VoIP provides a first function of the filtering and a second function of having a communication partner recognize the VoIP, simultaneously."

Independent claim 9 patentably distinguishes over Arrow and Christensen, taken alone and in combination for reasons similar to those discussed above, because nothing cited or found discusses "said filtering key is used for identifying a specific value showing a VoIP performing a VoIP communication, and the specific value showing the VoIP provides a first function of the filtering and a second function of having a communication partner recognize the VoIP, simultaneously."

Independent claim 10 patentably distinguishes over Arrow and Christensen, taken alone and in combination for reasons similar to those discussed above, because nothing cited or found discusses "said filtering information/filtering key is used for identifying a specific value showing a VoIP performing a VoIP communication, and the specific value showing the VoIP provides a first function of the filtering and a second function of having a communication partner recognize the VoIP, simultaneously."

Independent claim 14 patentably distinguishes over Arrow and Christensen, taken alone and in combination for reasons similar to those discussed above, because nothing cited or found discusses "transmitting, to the receiving side, the encrypted packet with the filtering information to enable filtering of a VoIP communication, wherein the filtering information includes a specific filtering value to filter the VoIP communication and allows a communication partner to recognize the VoIP communication, simultaneously."

The dependent claims depend from the above-discussed independent claims and are patentable over the cited references for the reasons discussed above. The dependent claims also recite additional features not taught or suggested by the cited references. For example, claim 5 recites "a search unit for searching if there is a filter key matching with a filter key detected by the filter key detecting unit in the filter key table and when there is none, outputting a discard command." In particular, the Office Action on page 9 asserted that Arrow, column 7, lines 40-55 discusses the above features of claim 5. However, Arrow only discusses a lookup table maintained by VPN unit 115 which identifies members of VPNs, rather than a filter key table for filtering VoIP. It is submitted that the dependent claims are independently patentable over the cited references.

Summary

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.
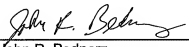
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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